

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
JORGE SALCEDO,)
Defendant.)
Criminal Action No.
1:19-cr-10081-IT-11

BEFORE THE HONORABLE INDIRA TALWANI, DISTRICT JUDGE

SENTENCING HEARING BY VIDEOCONFERENCE

Friday, March 19, 2021
2:36 p.m.

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts

Robert W. Paschal, RMR, CRR
Official Court Reporter
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PROCEEDINGS

(In open court at 2:36 p.m.)

THE DEPUTY CLERK: United States District Court is now in session, the Honorable Judge Indira Talwani presiding.

This is Case Number 19-cr-10081, United States versus Jorge Salcedo. Will counsel please identify themselves for the record.

MS. KEARNEY: Good afternoon, Your Honor. Kristen Kearney for the United States.

THE COURT: Good afternoon.

MS. WINKLER: And Susan Winkler for the defendant,
Jorge Salcedo, who is also present here on the screen.

THE COURT: Good afternoon.

MR. FRONGILLO: Good afternoon, Your Honor. Thomas Fronqillo for Mr. Salcedo.

THE COURT: Good afternoon.

So we're here for sentencing. And since this is proceeding by videoconference, I'm going to begin by describing the arrangements.

So you're appearing here by videoconference with a video link to the courtroom. On your screen, you should be able to see me, my courtroom deputy, the lawyers, the probation officer, and the court reporter. The courtroom is closed -- sorry. The courtroom is not closed, but I'm the only one here.

1 If you have any trouble with the video or phone
2 connection, or you cannot hear or see what is happening, let
3 me know, speak up, wave your hand, and I will stop the
4 proceedings and see what we can do. If you need anything
5 repeated, let me know. The court reporter will be preparing
6 a transcript of this proceeding, but no recording of the
7 video itself will be preserved.

8 And for anyone else on the line, as well as the
9 parties here, under Local Rule 83.3(a), any photography,
10 recording, rebroadcasting, et cetera, of this proceeding is
11 prohibited by local rule.

12 Mr. Salcedo, you have the right to be physically
13 present in open court for this proceeding, but you can waive
14 that right. Before I ask whether you intend to waive your
15 right, you should know the following: Today is March 19,
16 2021. We are experiencing a worldwide epidemic caused by the
17 coronavirus.

18 The president of the United States and the governor
19 of Massachusetts have each declared a state of emergency,
20 although neither the federal government nor the state
21 government has yet made judges or court employees or defense
22 counsel or prosecutors yet eligible for vaccination.

23 Nonetheless, we are trying to proceed with matters,
24 and congress has passed an emergency statute that permits
25 defendants in criminal cases to appear in court by video or

1 telephone for certain types of proceedings. Our normal
2 procedure before the emergency was to have all defendants
3 physically present in the courtroom for sentencing hearings.

4 We're attempting as best as we can to protect the
5 health and safety of our court employees, the lawyers, the
6 defendants, the security personnel, and everyone else who is
7 involved with the court system. At the same time, we are
8 attempting to permit the basic functions of the court to go
9 forward without unnecessary delays.

10 The physical appearance of defendants and counsel
11 in the courthouse and their transportation to and from the
12 courthouse are likely to increase health risks for all
13 persons involved as well as the general public. To try to
14 minimize those risks, we are giving defendants who prefer to
15 appear in court by video the option to do so. It is
16 voluntary. You do not have to appear by video. But if you
17 choose to appear by video, I will ask you to waive your right
18 to be physically present.

19 You should also know that you have a right to have
20 this proceeding conducted in open court in public view. Our
21 normal procedure was to have such proceedings in open court.
22 As I said before, the courtroom is open, but in light of the
23 emergency, access to the courtroom is somewhat limited; and
24 as announced on our website, we are permitting members of the
25 public to have access to this videoconference.

1 Ms. Marchione, are there members of the public on
2 this line?

3 THE DEPUTY CLERK: Yes, Your Honor, there are.

4 THE COURT: Thank you.

5 So with that, do you understand that you have the
6 right to be physically present in open court for your
7 sentencing hearing?

8 THE DEFENDANT: Yes, I do, Your Honor.

9 THE COURT: Do you understand you have the right to
10 consult with your lawyer during this hearing?

11 THE DEFENDANT: Yes, I do, Your Honor.

12 THE COURT: Do you understand that if you wish to
13 speak with your lawyer during the proceeding, you should let
14 me know, and I will make arrangements for the two of you to
15 have a private conversation?

16 THE DEFENDANT: Yes, I do, Your Honor.

17 THE COURT: Do you understand you have the right to
18 see and hear everything that happens in court during your
19 sentencing, but because there's only a single camera here,
20 you will see only part of the courtroom?

21 THE DEFENDANT: I understand, Your Honor.

22 THE COURT: Do you understand that your family
23 members and other supporters have the right to attend this
24 proceeding, but they will need to do so through the telephone
25 line?

1 THE DEFENDANT: I understand, Your Honor.

2 THE COURT: Have you consulted with your lawyer
3 concerning waiving your right to appear in person?

4 THE DEFENDANT: Yes, I have, Your Honor.

5 THE COURT: Do you agree to waive your right to
6 appear in person for your sentencing and instead to appear by
7 video?

8 THE DEFENDANT: Yes, I do, Your Honor.

9 THE COURT: Do you also agree that to the extent
10 that your right to public access to this proceeding is in any
11 way impaired, you waive that right?

12 THE DEFENDANT: I understand, Your Honor.

13 THE COURT: And to the lawyers, is there any reason
14 I should not accept the waiver?

15 MS. WINKLER: No, Your Honor.

16 MS. KEARNEY: No, Your Honor.

17 THE COURT: I find the defendant has knowingly and
18 voluntarily waived his right to appear physically and has
19 knowingly and voluntarily agreed to proceed by
20 videoconference. I also find that Mr. Salcedo's sentencing
21 cannot be further delayed without serious harm to the
22 interest of justice since delaying this proceeding until it
23 is reasonably safe for Mr. Salcedo to travel to Massachusetts
24 would frustrate his right to a speedy disposition of the
25 charges brought against him.

1 I further find that the measures taken to provide
2 public access to the proceeding are reasonable under the
3 circumstances and that to the extent that the defendant's
4 right to public access to this proceeding is in any way
5 impaired, he has knowingly and voluntarily waived that right.
6 I accept the waiver, and I will proceed now to sentencing.

7 So, as always, I start with the documents that I
8 have received and reviewed in preparation for the sentencing.
9 I have the presentence report that was prepared
10 December 18th, revised February 12, 2021, and March 11, 2021.
11 I have the Government's sentencing memorandum filed March 12,
12 2021; the defendant's sentencing memorandum filed March 12,
13 2021, and accompanying exhibits and also the defendant's
14 response and accompanying documents filed March 18th.

15 I have reviewed the first superseding indictment,
16 the original plea agreement, the amended plea agreement. I
17 have the Government's motion for forfeiture. I've also
18 reviewed the statement of reasons in the criminal case
19 against Mr. Center and against Mr. Vandemoer.

20 So with that, is there any other material that's
21 been submitted to the Court that I missed?

22 MS. KEARNEY: Not from the Government, Your Honor.

23 MS. WINKLER: Not from the defendant, Your Honor.

24 THE COURT: Okay.

25 MS. VICTORIA: Your Honor, there was a letter from

1 UCLA that was --

2 THE COURT: Yes. Thank you. I have that as a --
3 well, I have it. I guess --

4 MS. KEARNEY: I believe it was attached to the
5 presentence report.

6 THE COURT: I think it was attached to the --
7 either the presentence report or the Government's memorandum;
8 but I do have it, and I have reviewed it -- thank you -- the
9 presentence report. And that is not something that UCLA
10 wanted put on the docket, I take it? That was just sent to
11 you?

12 MS. KEARNEY: Correct, Your Honor.

13 THE COURT: Anything else?

14 MS. WINKLER: No, Your Honor.

15 MS. KEARNEY: No, Your Honor.

16 THE COURT: And for probation, was any information
17 withheld from the presentence report pursuant to
18 Rule 32(d) (3)?

19 MS. VICTORIA: No, Your Honor.

20 THE COURT: Okay. Thank you.

21 And we don't have any witnesses or victims present
22 planning to make a statement, correct?

23 MS. KEARNEY: Correct.

24 THE COURT: Okay. So, Ms. Winkler, have you had an
25 opportunity to review all the materials submitted in

1 connection with the sentencing?

2 MS. WINKLER: Yes, Your Honor.

3 THE COURT: Actually, I didn't know which one of
4 you is proceeding here.

5 MS. WINKLER: It's me. And, yes, Your Honor, we've
6 had an opportunity to review all of it.

7 THE COURT: And have you had a chance to go over it
8 with the defendant?

9 MS. WINKLER: We have.

10 THE COURT: Mr. Salcedo, have you reviewed all the
11 material that was submitted in connection with the
12 sentencing?

13 THE DEFENDANT: Yes, I have, Your Honor.

14 THE COURT: And had a chance to discuss that
15 material with your counsel?

16 THE DEFENDANT: Yes, I have, Your Honor.

17 THE COURT: Okay. So let's start with the
18 presentence report, and I have some objections from the
19 Government and also from the defendant. Maybe I'll start
20 first with the defendant's objections, and I wasn't clear
21 whether any of them needed to actually -- you were
22 challenging the statements in the presentence report that you
23 felt needed to be changed or you were just trying to bring
24 material to my attention?

25 MS. WINKLER: It's the latter, Your Honor. We just

1 wanted to bring material to your attention.

2 THE COURT: Okay. So with that, is there anything
3 further that -- I have read all of your objections and the
4 probation office's responses. Is there anything further on
5 the objections that you would like to discuss at this point?

6 MS. WINKLER: No. Your Honor, I don't believe any
7 of them impact the sentencing guideline calculation, and some
8 of them were referenced in the sealed pleading yesterday, but
9 I don't think there's anything additional that we need to
10 say.

11 THE COURT: Okay. And then turning to the
12 Government's objection, the objections -- first there were
13 objections regarding the determination by -- or the finding
14 by the probation office that, under the guidelines, UCLA is
15 not a victim. Did you want to address that further or just
16 rest on your objection there, Ms. Kearney?

17 MS. KEARNEY: We'll rest on our written submission,
18 Your Honor.

19 THE COURT: Okay. And for the reasons that are set
20 forth by the probation office and that were previously set
21 forth in various sentencing proceedings here, it is my
22 understanding of the guidelines, and I believe of every other
23 judge now who has considered this, that the universities are
24 not victims under the -- under the sentencing guidelines for
25 determination of a guideline sentence. So I am overruling

1 the Government's objection there.

2 With regard to the maximum fine, the Government
3 objected that the maximum fine should be twice -- twice the
4 gain or loss. Probation responded that that wasn't
5 sufficiently set forth in the indictment. And do you have
6 any disagreement with that, Ms. Kearney?

7 MS. KEARNEY: I will note that paragraph 160(h) of
8 the superseding indictment indicates that the Government
9 intended to forfeit property that constituted proceeds of the
10 fraud, and it listed a \$200,000 money judgment. So
11 Mr. Salcedo was on notice that the gain here was \$200,000;
12 but otherwise, we'll rest on our objection.

13 THE COURT: Okay. I am stating the maximum fine as
14 set forth by the probation office. I do think the forfeiture
15 portion is clear, but I don't think I need to calculate that
16 for purposes of the fine.

17 So I think that takes care of -- oh, no. Yeah,
18 that takes care of all the objections, correct?

19 MS. KEARNEY: Yes, Your Honor.

20 MS. WINKLER: Yes, Your Honor.

21 THE COURT: Okay. So for the guidelines, it
22 appears there's no dispute here. The base offense level is
23 considered a level 12; specific offense characteristics, a
24 two-level increase because there were two bribes involved, a
25 ten-level increase based on the value of the payments, for an

1 adjusted offense level of 24, a three-level decrease for
2 acceptance of responsibility, for a total offense level of
3 21. Any disagreement?

4 MS. KEARNEY: No, Your Honor.

5 MS. WINKLER: No, Your Honor.

6 THE COURT: And Mr. Salcedo has no criminal history
7 that is countable here, and that gets us to zero criminal
8 history points, criminal history category I. Any
9 disagreement?

10 MS. KEARNEY: No, Your Honor.

11 MS. WINKLER: No, Your Honor.

12 THE COURT: So with that, the imprisonment under
13 the statute is not more than five years; a guideline range,
14 37 to 46 months; the statutory range for supervised release,
15 not more than three years; a guideline range, one to three
16 years; probation, statutory range, one to five years;
17 guideline range, ineligible; a fine, statutory range, not
18 more than 250,000 based on my overruling the Government's
19 objection on that; and a guideline range of 15,000 to
20 150,000.

21 Any disagreement with any of that?

22 MS. WINKLER: No, Your Honor.

23 MS. KEARNEY: No, Your Honor.

24 THE COURT: Okay. And restitution to be
25 determined, but there has been no request for restitution

1 here, correct?

2 MS. KEARNEY: Correct. There's no restitution
3 request, Your Honor.

4 THE COURT: Okay. And I have the Government's
5 motion for forfeiture in the amount of \$200,000, which tracks
6 the plea agreement, correct?

7 MS. KEARNEY: Yes, Your Honor.

8 MS. WINKLER: Yes.

9 THE COURT: And a special assessment, a mandatory
10 \$100?

11 MS. KEARNEY: Correct.

12 THE COURT: So with that, I will hear from the
13 Government.

14 MS. KEARNEY: Thank you, Your Honor.

15 Jorge Salcedo was an eager participant in Rick
16 Singer's scheme. He did not need a lot of convincing and did
17 not need to be dragged across the line between right and
18 wrong. He had no intention of stopping, and even asked
19 Singer for an advance on the next deal.

20 Mr. Salcedo was a repeat player in the scheme. He
21 facilitated two side door deals at UCLA, attempted a third,
22 and even organized a side door at the University of Southern
23 California. He took an active role in directing this scheme.
24 He enlisted others, including the women's soccer coaches and
25 his own assistant coach. He actively lied to UCLA compliance

1 staff and instructed others, including a parent, to do the
2 same.

3 And he also determined to use the athletic
4 scholarship process to bypass the scrutiny that UCLA
5 compliance applied to walk-on applicants. And Mr. Salcedo
6 pocketed all \$200,000 in bribe payments. He wasn't doing
7 this to increase financial support for UCLA or its soccer
8 teams. He was acting out of his own self-interest.

9 These factors place Mr. Salcedo among the most
10 culpable of the coaches and set him apart from the coaches
11 who have been sentenced thus far. John Vandemoer, the
12 Stanford sailing coach, directed all the bribes to the
13 sailing program. Michael Center, the Texas coach, directed
14 some of the bribe he received to the tennis program and took
15 only \$60,000 for himself. Unlike Mr. Salcedo, Michael Center
16 participated in Singer's scheme only once and refused to do
17 it a second time when presented with the opportunity.

18 Yet given the seriousness of his offense, the
19 importance of deterring others, and the need to punish what
20 he called outright avarice, Judge Stearns sentenced Center to
21 six months in prison despite that Center's conduct was an
22 aberration on his otherwise unblemished record, whereas
23 Mr. Salcedo engaged in repeated deals, accepted significantly
24 higher bribes, and engaged in separate frauds against USC and
25 the IRS. A significantly longer sentence than six months is

1 | merited.

The other comparable the Government noted in our sentencing memorandum was for Xiaoning Sui, the parent of the 2018 applicant for whom Mr. Salcedo did a side door. Ms. Sui received a sentence of time served, which was approximately five years in a Spanish prison where she did not speak the language and was away from family and friends.

Unlike Mr. Salcedo, Sui was a passive participant. She followed Singer and Mr. Salcedo's lead. As a coach, Mr. Salcedo stands in a different position than the parents. Unlike the parents, coaches like Mr. Salcedo have a duty to their team and to their university, a duty to recruit athletes who will contribute to the team, a duty to distribute limited athletic scholarships among the team members, and a duty to use athletic recruitment to benefit the schools and not their pockets.

17 Yet lining his pocket is exactly what Mr. Salcedo
18 did. While his sentencing memorandum suggests that he agreed
19 to accept bribes as a way to support his family in
20 Los Angeles on a coach's salary supplemented by soccer camps,
21 it is important to note that Mr. Salcedo's coach's salary was
22 six figures and he was living in a \$2½ million home. He was
23 not stealing bread to feed his family.

24 And I want to talk next about a disturbing theme in
25 Mr. Salcedo's sentencing memorandums. While Mr. Salcedo

1 indicates that he takes responsibility for his conduct in his
2 letter to the Court, the sentencing briefs submitted on his
3 behalf explicitly blame UCLA for not stopping him. But the
4 facts show that UCLA compliance staff questioned the
5 recruitments here but were further misled by Mr. Salcedo and
6 others at his direction.

7 Compliance staff questioned why the 2016 applicant
8 was listed as a track athlete with the NCAA and why nothing
9 about soccer came up when they searched for her online.
10 Mr. Salcedo respond with a fake backstory about how she came
11 to his attention. Then when compliance staff continued to
12 question her admission given her medical history, Mr. Salcedo
13 directed the women's coaches and student's mother to lie
14 about the extent of her issue and to insist that she intended
15 to play for the team.

16 Compliance staff also questioned Mr. Salcedo as to
17 why he was attempting to recruit the 2017 applicant so late
18 in the process, why an Internet search did not show any
19 results about him playing soccer, and why he was being
20 recruited after being denied regular admission. Ultimately,
21 the student enrolled in a different school.

22 It was to avoid this scrutiny that Mr. Salcedo
23 opted to designate the 2018 applicant as a scholarship
24 recruit and planned to do the same for future Singer clients.
25 In other words, UCLA attempted to address the concerns about

1 illicit recruitments, but Mr. Salcedo found new ways to get
2 around that. This shows that Mr. Salcedo was not going to be
3 deterred no matter what hurdles UCLA put up.

4 In making their argument that UCLA bears
5 culpability for Mr. Salcedo's actions, his lawyers point to a
6 UCLA form that asks about recruited walk-ons' past and future
7 financial donations as somehow showing that UCLA encouraged
8 coaches to recruit based on development potential. But this
9 argument misses the point. UCLA can't verify whether
10 financial contributions are influencing admissions decisions
11 without confirming whether there are any financial
12 contributions in the first place. And perhaps more telling,
13 Mr. Salcedo hid the bribes he received and the families'
14 ability to contribute from UCLA.

15 It has also been suggested, not by Mr. Salcedo, but
16 by some of the people submitting letters in support of him
17 that he is a people pleaser whose trust in others led him to
18 the offense here. Let me be clear: Mr. Salcedo did it for
19 the money and knew from the beginning that there was fraud
20 involved.

21 Starting with the 2016 applicant, Mr. Salcedo
22 understood she was not a recruitable player. Ali
23 Khosroshahin texted Mr. Salcedo, "Does the women's coach know
24 she is not going to play?"

25 In connection with the attempted recruitment of the

1 2017 applicant, Mr. Rick Singer warned Mr. Salcedo that if
2 UCLA Googled the applicant, nothing would come up about
3 soccer and offered to tone down the fake profile for the
4 student.

5 Mr. Salcedo's sentencing memo also makes an
6 argument all too familiar in white-collar cases, that he's
7 already been punished enough by losing his job and tarnishing
8 his reputation. But that arguments ascribes an inverse
9 relationship between one's position in society and punishment
10 where the higher your position, the less punishment you
11 deserve. Privileged people who are embarrassed get off,
12 while poor people whose crimes garner little more than a
13 press release go to jail.

14 In summary, Your Honor, Mr. Salcedo has
15 demonstrated that he is a perpetual cheat. He cheated UCLA
16 by recruiting students in exchange for bribes. He cheated
17 his team by causing limited scholarship money to be directed
18 to a fake recruit. He cheated USC by engaging in a separate
19 conspiracy to bribe Donna Heinel to facilitate the admission
20 of an applicant as a member of USC's baseball team, and he
21 cheated the IRS by inflating his business losses to avoid
22 paying taxes.

23 A meaningful term of imprisonment is necessary
24 to -- excuse me -- to deter Mr. Salcedo and others from
25 engaging in this conduct, to promote respect for the law, and

1 to provide just punishment. And for these reasons the
2 Government recommends a sentence of 18 months imprisonment, a
3 fine of \$95,000, one year of supervised release, forfeiture
4 of \$200,000, and a \$100 special assessment.

5 Thank you.

6 THE COURT: I do have some questions for you. If
7 I'm trying to think about relative culpability here, where do
8 you place -- I had the filing from the Government before I
9 sentenced the parents in this scheme. I had a brief from the
10 Government sort of where everyone was placed, in a sense,
11 relative to each other in terms of culpability.

12 So here, I understand your statement concerning the
13 differences between Mr. Salcedo's situation and Mr. Center
14 and Mr. Vandemoer, as well as Ms. Sui. But compared to the
15 other people in this indictment, how do you -- the other
16 coaches -- where do you place him in terms of culpability?

17 MS. KEARNEY: Towards the top, Your Honor.

18 Mr. Salcedo had one of the highest numbers of repeat deals
19 and towards the higher end of the bribe amounts received and
20 also the interest in repeating the process, coupled with his
21 other frauds on USC and the IRS.

22 So compared to the other defendants in this
23 indictment, Gordon Ernst and Donna Heinel, for the number of
24 times that they did it and the amounts that they received,
25 are going to be at the very top. I would put Martin Fox

1 toward the top as we've discussed previously because he had
2 insights into both aspects of the scheme.

3 But then next would be probably Ali Khosroshahin
4 and Mr. Salcedo for the number of times that they did it, the
5 amount of money that they got from the scheme.

6 THE COURT: So above -- you would find his
7 involvement greater than that of Mr. Vavic or Ferguson?

8 MS. KEARNEY: Yes, Your Honor. Mr. Ferguson only
9 did one side door deal and he also did attempt to recruit
10 other coaches to the scheme. He also had some of the money
11 go to the school in addition to his pocket. Mr. Vavic was
12 only involved with two students and was willing to do more,
13 and he recruited or helped facilitate Ali Khosroshahin's
14 involvement in this scheme.

15 But Mr. Salcedo did more students and he was also
16 engaging in, as I mentioned, the separate schemes to defraud,
17 not involving Mr. Singer.

18 THE COURT: And not in this indictment, but
19 separately, where do you place him compared to Mr. Meredith?

20 MS. KEARNEY: So Mr. Meredith only did two
21 students. He had much higher bribes, but that is somewhat in
22 relation to the school for the same reason that Mr. Vandemoer
23 at Stanford had higher bribe amounts as well, because
24 Mr. Singer would charge parents more and expected to have to
25 pay more to get into a higher ranked school.

1 THE COURT: Okay. The other question I had for
2 you, at some point, I am trying to, obviously, wrestle with
3 comparability here, and usually we can use the guidelines as
4 some kind of a proxy for similarly situated defendants.

5 It seems to me, though -- and help me here if you
6 see this differently. It seems to me that when you are
7 talking about the crimes committed by the coaches, they all
8 engaged in the same crime, the same -- the same offense,
9 essentially, whether there was a little bit more money or a
10 little bit less money, more people, fewer people, et cetera.
11 It was basically the same crime.

12 But the way the guidelines work, the way I'm
13 expected to determine the crime or determine the appropriate
14 guideline depends on the statute that's being used, right?
15 That the way we -- the procedure we go through to calculate
16 the guidelines is we take the statute that the Government has
17 charged the defendant with and the defendant has pled guilty
18 to or been convicted of. We go to the back of the
19 guidelines. We look up which section of the guidelines is
20 the section that we're going to use for that crime, and we
21 then look at what the guideline says about it.

22 But regardless which of the labels that the
23 Government is using here, whether you're charging people with
24 a violation of racketeering, honest services mail fraud,
25 federal programs bribery, wire fraud, all of these different

1 shapes that this -- these crimes have been charged and the
2 different versions of the indictment, at heart, we're dealing
3 with the same crime, and yet the guidelines are entirely
4 different.

5 MS. KEARNEY: Well -- I'm sorry, Your Honor.

6 THE COURT: Well, I mean, that's -- that's really
7 the question, is this sort of, how can I -- how is this
8 anything different than sort of the question of what statute
9 the Government chose to prosecute the person under rather
10 than what the misconduct was?

11 MS. KEARNEY: Well, Your Honor, I think one issue
12 is that the Government calculated -- calculates the
13 guidelines different than the Court has. So with the honest
14 services fraud charge, the Government would consider that,
15 you know -- has considered the \$200,000 amount as going
16 towards the guidelines calculation, whereas I know the Court
17 has opted not to do that. And so when you look at it that
18 way, the differences are not actually that much.

19 THE COURT: But, you know -- and maybe I'm -- maybe
20 I'm naive in how I understand the different roles of the
21 prosecutor and the judge, but I understand a crime is
22 committed, and maybe I'm being overly simplistic here, but a
23 crime is committed. The Government charges the defendant
24 with the crime. The defendant at some point is sentenced for
25 that crime, and the judge is the one who imposes the

1 sentence.

2 And I think what you're saying here is the
3 Government has a view of what the sentence should be. And so
4 rather than saying, "This is the crime we're charging and
5 this is -- now, Judge, what do you think is the appropriate
6 sentence?" What it sort of feels like has happened in this
7 case is that the Government says, "We're the ones who are
8 getting to decide what the appropriate sentencing range is.
9 And if you won't agree with our calculation of it, we're not
10 going to appeal you to the First Circuit," which you
11 certainly had every right to do every step of the way.
12 Instead, what you're saying is, "We'll just keep charging it
13 differently."

14 What's -- what am I missing in that analysis?

15 MS. KEARNEY: No, Your Honor. I would disagree
16 with that, because we -- you're correct that the conduct is
17 the same and it results in different charges, but we're
18 asking you to sentence based on the defendant's relative
19 culpability regardless of the crime that -- or the statute
20 that they have pled guilty to.

21 We have tried to adjust our sentencing
22 recommendations appropriately based on the prior sentences
23 given so that there is not going to be major discrepancies
24 between the sentences, which is why even in the plea
25 agreement here, even though the sentencing guideline range

1 was 37 months, we agreed not to seek more than 24 months,
2 which was the guideline for the RICO conspiracy, and then
3 we've also adjusted further and are now recommending
4 18 months based on our analysis of the relative culpability.

5 So we are trying to consider this defendant's
6 conduct beyond what the guidelines calculations might be.

7 THE COURT: Okay. And with regard to supervised
8 release, you're only asking for one year. You don't have any
9 concern to need an additional time beyond that? And the fine
10 of 95,000 is assessed -- is -- you've reached that number
11 how?

12 MS. KEARNEY: So the fine of 95,000 we reached
13 based on the guidelines calculation, the amount of the fine
14 that Mr. Fox was required to pay, as well as looking at the
15 assets reported in the presentence report. And that's how we
16 reached that number.

17 THE COURT: Okay. Okay. Thank you.

18 Ms. Winkler?

19 MS. WINKLER: Thank you, Your Honor.

20 Let me start by describing for a moment Jorge
21 Salcedo and what -- where his life was before this indictment
22 happened.

23 I think it's important to note that soccer was his
24 life. It was his passion, his joy. It was the source of his
25 lifetime of accomplishments and his income. It is what he

1 did as a young man on the U.S. youth national team. It's
2 what he did at UCLA when he led his team to a national
3 companionship and later as their coach.

4 It's where he met his wife, ultimately. It's where
5 he devoted endless hours and mentored young men and
6 demonstrated the commitment and the hard work it took to
7 accomplish difficult goals. His commitment to both soccer
8 and to UCLA was very deep and longstanding. He loved that
9 life.

10 And I think it's important to ask the question,
11 what went wrong? What went wrong for Jorge was, in the
12 spring of 2016, early that spring, he made a bad financial
13 decision. He bought a house he couldn't afford. It was not
14 an extravagant house. It was 2,900 square feet. It was
15 built in the 1940s. It was a decent house in a very
16 expensive housing market. At that time, I think he paid 1.6
17 or 1.8. It was not worth the 2½ million that it later became
18 worth.

19 He was trying to provide a better standard of
20 living for his wife and four children. His wife did not
21 work. She stayed home and took care of the kids and
22 homeschooled them. And for years before they bought that
23 home, they had been living in rental properties.

24 He at the time believed there would be legitimate
25 business opportunities that would provide him the additional

1 income he would need to pay the mortgage based on some
2 business opportunities he thought he would have with a
3 colleague with whom he had worked previously, but that did
4 not materialize.

5 So almost immediately, he was underwater. He had
6 only his income, and the Government is correct. He was
7 making over \$100,000 on a coach's salary, but it was not
8 enough for him to pay the mortgage and to pay his family's
9 living expenses.

10 So when Mr. Khosroshahin approached him in May of
11 2016, it was -- he did not need a lot of convincing. It was
12 money that suddenly appeared in front of him that would help
13 him get out of the problem. And he knew it was wrong. He
14 did it to help his family. He did it for his four children
15 and his wife.

16 The Government says he did it for self-interest.
17 He did it to enrich himself. I don't think that's fair. He
18 was not living high on the hog. He didn't use this money to
19 buy a vacation property on Cape Cod. He wasn't making lavish
20 expenditures. What he was doing was putting a roof over his
21 kids' heads and taking care of the expenses of family life.
22 There was nothing extravagant about this family.

23 And I think it's worth noting -- I mean, the
24 prosecution points out you can't blame UCLA for this. Well,
25 in fact, for years, as was briefed earlier by Mr. Frongillo

1 and myself in connection with the 17(c) subpoenas, for years,
2 the coaches had been expected to raise money at UCLA. And
3 that was something that was -- in particular, the prospective
4 student athletes that were at the bottom of the roster were
5 sometimes used to do as well as to increase the athletic
6 performance of the team, something that the NCAA required for
7 the team, to meet certain academic standards. And to do
8 that, sometimes those bottom-of-the-roster spots were used
9 both for academics and for financial purposes.

10 THE COURT: So --

11 MS. WINKLER: What he did -- yes, Your Honor?
12 Sorry.

13 THE COURT: But that was -- I think there's
14 something that gets blurred here when we talk about the
15 universities' roles in these cases. And I think I don't -- I
16 don't think that it's helpful to think about the universities
17 as being in all cases caught unaware of the notion that
18 programming at their places was -- that admissions might have
19 been linked to how to fund those programs. I would find that
20 surprising and that study that you -- or that report that you
21 showed sort of raised those questions.

22 And I think that's a legitimate criticism, and
23 maybe it's a criticism that as an overall society, as we talk
24 about what's -- what does it mean when we say that
25 universities are purely places of merit and that anyone who

1 gets in must be this -- the top and this, this, and this,
2 when, in fact, people get in lots of different ways.

3 And, you know, someone might get a particular edge
4 because they live in a strange, remote part of the country,
5 and somebody get a particular edge because of their
6 background, and someone might get a particular edge because
7 they're able to fund a building. And we don't talk about the
8 being able to fund a building; but it may be true that a
9 university might choose to use that because you need to do
10 that sometimes.

11 Or maybe the person is going to fund four more
12 scholarship positions. Who knows? Whatever it is, there may
13 be lots of different reasons, and we should probably have a
14 frank conversation as a society that this isn't pure merit
15 and the fact that somebody goes to an elite school doesn't
16 mean that they are very necessarily smarter and brighter and
17 better than the person who didn't get to go to that very
18 elite university. All legitimate conversation.

19 But that's a different conversation than what we
20 have here, because regardless of whether UCLA might have
21 either looked the other way or accepted that sometimes
22 fundraising and admissions may have some connection, maybe
23 they do that, that has nothing to do with here where the
24 money was going to Mr. Salcedo's pocket.

25 MS. WINKLER: Correct, Your Honor. That is

1 correct. That's where he went wrong. He diverted the money
2 into his pocket.

3 The reason I bring up the point is not to say what
4 he did was okay. It was not. But the distance between what
5 he did and what he had known at the school is not so far
6 as -- when I think of fraud cases, at least fraud cases that
7 I was familiar with, you would have people who came up with
8 these -- well, you know, you could have a plan to rob a bunch
9 of banks. That's not what Mr. Salcedo did.

10 He saw an avenue, and it doesn't make it any
11 better, but it was not such a huge deviation from what he had
12 seen the school do to do for himself, that it's just not as
13 far as a move.

14 THE COURT: Well, I mean, I guess what I would say
15 is, if he was right about the school using positions to help
16 fund their sports department, if that is true, the problem is
17 lack of candor about it. But it's their positions. So the
18 problem is that they might be saying one thing and doing
19 something else, and you say, "Well, okay. So why aren't they
20 being straightforward about what's happening, if that were
21 the case?"

22 But this is different. This is saying, "I see how
23 easily it can be used, and I'm going to do it to my benefit
24 instead of the benefit of the program or to the benefit of
25 some other things that are being funded in this manner."

1 MS. WINKLER: Yes, Your Honor. That's true, and
2 that's where Mr. Salcedo got off track with what he did when
3 he accepted the money after Mr. Khosroshahin offered him this
4 easy way to get the money that he at that point desperately
5 needed to cover his expenses.

6 To continue, once the indictment came down and the
7 arrest happened, Mr. Salcedo's life changed utterly. I think
8 it's fair to say life as he knew it was gone. He was --
9 could no longer be a head soccer coach or any competitive
10 soccer coach. He was humiliated in that world and, you know,
11 appropriately so given what he had done. But it's no
12 exaggeration to say soccer had been his life, and that was
13 gone.

14 And it also, for him at least and his family,
15 soccer meant UCLA. And both he and his wife had gone to
16 UCLA. They both were heavily involved in the soccer
17 community and in the UCLA community. So they were losing
18 their community, their friends. Essentially, their support
19 structure was gone as well. And when it was exposed, it --
20 you know, Jorge has lost a significant amount. His deep
21 connection to UCLA is broken. His ability to work in the
22 soccer world is gone.

23 So that caused a significant degree of
24 self-reflection, and I think it's important to notice the
25 changes that Jorge made following that March 2019 series of

1 events. The first one was he sold that house. He got rid of
2 the financial albatross around his neck, and that was not an
3 easy choice. It sounds like it might be, but it wasn't.

4 It's where his kids and his wife lived and they had
5 to go to northern California and rent. And they were in a
6 situation where they moved away from their friends, their
7 teams, their church. And as a result of that, he faced
8 significant sadness and anger and disappointment from his
9 family based on choices he alone had made.

10 And, you know, he had to come clean about those
11 choices, and they had to sell the house. That's what allowed
12 him to put the 200,000 in escrow for the Government and to
13 start paying back taxes and some of the other things he
14 needed to do.

15 He -- when they got to northern California, which
16 is where they moved to after events of the arrest and the
17 indictment, he engaged regularly with a life coach, Don Nava,
18 and also a pastor, Ramin Razavi, and took a hard look at his
19 life and his choices and his decisions and how he was making
20 them.

21 And both of -- both of those men wrote on his
22 behalf, and you can see from that how he changed his focus to
23 focus on his family, his marriage, what he could do that was
24 productive and positive. And both of those people who work
25 closely with him thought he was making real changes in terms

1 of his willingness both to accept responsibility for what he
2 did and also to make good choices going forward.

3 Together, he and his family made the hard choice to
4 live within their means, which is something that's very
5 important. But as a family, they had to make sacrifices.
6 They went back to renting a more modest home. They cut their
7 expenses. His wife Rebecca got a teaching position, and the
8 teaching position she got was back in southern California, so
9 they moved back to southern California for her to be able to
10 work as a teacher.

11 And by doing that, as a family, they got to the
12 point where their expenses were within their means. They
13 could -- they can now live within their means, and that was
14 something that affected the whole family, but the whole
15 family along with Mr. Salcedo made the decision to do.

16 A year ago, he decided to accept responsibility for
17 his crimes here and tried to get on with his life to focus it
18 in a positive direction. And as part of all that, he had to
19 reinvent himself, figure out what he could do for a job or a
20 career because all he had ever known, the soccer life, was
21 gone. And he did that. He took a hard look at the skills he
22 had.

23 He ultimately found a position with MedeSol, which
24 we described in the sentencing memorandum, the start-up
25 company that is hoping to market a very promising product

1 that will assist with protection from viruses including
2 COVID-19 and potentially worldwide.

3 The work could make a positive difference in the
4 world, and it attracted Jorge because it could. It's
5 something he's proud of. It's something his family supports
6 and is proud of him for doing, and he keeps them involved in
7 the fact that he is doing the work so that it's -- it has
8 become a -- very much a family thing for his family.

9 And I'm sure you saw the letter from Jeff Williams,
10 which -- the person who made the product, who was
11 particularly taken with Jorge and his transparency about both
12 his wrongdoing and his willingness and what he could
13 contribute to the team going forward.

14 So I think, in terms of a sentence that is
15 sufficient but not greater than necessary to accomplish the
16 goals of sentencing, you know, he certainly has been punished
17 a lot already. I think it's fair to say that incarcerative
18 sentences today are harsher than they've ever been because of
19 the quarantining and the, essentially, solitary confinement
20 required to do that in order to be in prison and the lack of
21 other opportunities while people are in prison.

22 For general deterrence, while I know it's been said
23 that it's important that people are incarcerated at least for
24 some amount of time as a deterrent factor, I'm not sure the
25 amount of time ultimately is going to have significant effect

1 on that. And there's been significant press on this case.
2 If there's any coach in any university system that missed it,
3 I would be surprised.

4 Jorge has done the work to reinvent himself in
5 trying to move on in his life, in his marriage, and with his
6 family. So in terms of specific deterrence, I -- he isn't
7 going to ever do this again and hopefully nothing like it
8 ever. He has made that commitment.

9 And so I do think that the important -- where this
10 comes down to, I think relative culpability is a very -- is
11 the hard issue in this case. And in terms of the people in
12 this indictment, I think Ms. Kearney has it -- I don't think
13 I would disagree with the order she puts people in. I would
14 note that at least according to the indictment, I think it's
15 Mr. Vavic that took more, 250,000, but some of it may have
16 been directed to the university. At any rate, somewhere in
17 the center of that group would be where he falls.

18 In connection with the -- and, certainly,
19 Coach Meredith -- I don't think it's fair to say costs more
20 to get into the schools whether it's Yale or Stanford as
21 opposed to UCLA or USC. It's what the market would bear.
22 It's what Coach Meredith could get for his services. Maybe
23 it is. Maybe the buildings cost more there too, although I
24 wouldn't think so.

25 THE COURT: I think the point she was making is

1 that parents were willing to pay more for certain schools
2 than others. But I would take your point that the price that
3 a parent would be willing to pay for a different school is
4 not the measure we would use here. So whether the person is
5 willing to pay 80,000 or a 100,000 because of which school it
6 is, I don't think that's our determining factor. But I do
7 think we're talking about large sums of money and multiple
8 locations, and I think that might be the better focus.

9 MS. WINKLER: And, certainly, you know, we're not
10 disputing the facts on the three applicants. They are what
11 they are, including Applicant 2, which failed. He didn't get
12 paid. That person went to another school.

13 With regard to -- what I would -- I think the
14 important points that I would like to make, I think the
15 parents are relative comparators. I know the Government
16 slides away from them and for good reason.

17 THE COURT: Well, let's assume I'm using the
18 parents who were involved in Mr. Salcedo's crime. We've got
19 five months for Ms. Sui --

20 MS. WINKLER: Yes.

21 THE COURT: -- the Isacksons are the other. They
22 haven't been sentenced yet.

23 MS. WINKLER: Correct. And Mr. Dameris, the
24 attempt that didn't happen, was time served of one day.

25 THE COURT: Okay. So let's assume that Mr. Dameris

1 doesn't add in, but let's assume that there's a good chance
2 that the Isacksons would get a similar or a greater sentence
3 than Ms. Sui, where I think there was more money involved --
4 I'm not positive -- but even if it's the same, why wouldn't
5 the measure be, well, those were one each, and Mr. Salcedo
6 did both of them?

7 MS. WINKLER: Um --

8 THE COURT: I mean, certainly --

9 MS. WINKLER: Your Honor, with Ms. Sui, I think we
10 ought to talk about her specifically just for a moment.

11 THE COURT: Okay.

12 MS. WINKLER: She was in the Spanish prison for
13 five months, but five months was not what the judge looked at
14 and decided she needed. It was -- in the -- I mean, it this
15 way --

16 THE COURT: It was a (C) plea. I'm not sure how
17 much he looked at it.

18 MS. WINKLER: Yes, but it was a (C) plea because
19 she was sitting in jail in Spain. It took that long. It
20 took the five months to work through extradition and the
21 immigration issues, so that it was not -- it's not the same
22 kind of thoughtful consideration to her culpability relative
23 to the other parents. I mean, she got five months, where
24 parents who spent -- well, I think she was at \$400,000 that
25 she paid.

1 THE COURT: It was -- it was right in the same
2 range. I mean, ironically, I know that there's a lot of
3 suggestions that there was different sentencing by different
4 judges. But I think, actually, everyone has been sentencing
5 fairly consistently here. And she got five months, which is
6 similar to some of the parents that I sentenced.

7 So why -- why would I go less than that? And maybe
8 I should be going higher than that. Why would I go less than
9 that? Why would I go less than Mr. Center's?

10 MS. WINKLER: Your Honor, those -- those
11 comparisons -- and Mr. Center is a close comparison in the
12 sense that he did the same crime and he did not do it as many
13 times.

14 The reason I keep going back to the parents is that
15 some of these parents did it multiple times for much, much
16 more money. And, for example, and these are the ones --
17 Judge Gorton's sentences have been a bit higher than yours,
18 not -- not hugely higher, but a little bit. And, for
19 example, Douglas Hodge did it for two of his children, tried
20 to do it for a third. And he was looking at nine months
21 incarceration, or he was sentenced to nine months
22 incarceration.

23 There was -- just generally speaking, there -- and
24 I think -- I'm sorry. I want to go back to the important
25 point on this. These parents could have been charged with

1 federal programs bribery just like the coaches were.

2 THE COURT: I agree with you on that, and I agree
3 with you that the -- that there's been an element of -- that
4 just makes no sense here in trying to look at this whole
5 scheme to have, you know -- we're on a fourth superseding
6 indictment that somebody doesn't plead guilty and then all of
7 a sudden, the next go-round of more indictments or I issue a
8 ruling that doesn't look so good in the way -- the reasoning,
9 thinking, and we get more indictments.

10 I don't have any disagreement with you that it's
11 hard to figure out who is who and what the relative
12 culpability is from looking at the name of the offense. So
13 I'm all with you about pushing that aside.

14 But that wasn't what the prosecutor was arguing
15 here. The prosecutor was not saying this was federal bribery
16 or this was wire fraud. We're just looking at what happened
17 here because this is -- at the end of the day, the things
18 that happened here, you can -- you can define without having
19 to talk about the statute, right? We can talk about it.
20 There are bribes. There's buying your way into things.
21 There's -- you know, there's culpability in different ways,
22 and that's maybe more useful to talk about.

23 MS. WINKLER: In my mind, he is in this case most
24 like Mr. Fox, who although he personally profited by 245,000,
25 according to the Government, there were multiple recruitments

1 involved. He was involved in both the testing and the
2 recruitment side and involved in multiple tests. And he
3 recruited Coach Center. Now, I know he had certain health
4 issues, and he was sentenced to three months.

5 THE COURT: And three months' home confinement, I
6 believe.

7 MS. WINKLER: And three months' home confinement.
8 That's right, yes. And I believe he was also -- in
9 fairness -- a cooperator, or the Government characterized him
10 as a cooperator. So there are some differences there.

11 And Coach Center -- Coach Center -- you know,
12 his -- the facts are -- it is not a good comparator for
13 Mr. Salcedo, just to be direct about it. I mean, he did take
14 only \$60,000 in his pocket.

15 But it was also in a -- you know, that sentence,
16 frankly, is an outlier to the other sentences for people who
17 did more, at least in my mind. The six months is longer when
18 you look at the kinds of sentences the parents got. Any
19 parent who was down at the -- at that level of \$60,000, most
20 all of those parents pled in your session, and most of them
21 got between one month, some of them less than one month. But
22 they were -- of the ones who paid in -- paid that amount --
23 and I guess I'm not seeing any difference between somebody
24 who pays a bribe and somebody who accepts a bribe.

25 THE COURT: I will -- I'll give you one difference,

1 and it's something that I think distinguishes the coaches
2 from Mr. Fox, which is the position of trust, right? That
3 there was -- I mean, that's -- at -- you know, at heart, when
4 we're talking about what is it that everyone would find
5 offense, what's offensive about what the parents did is they
6 were trying to buy a place for their children. That's
7 offensive. What's offensive about what Mr. Fox did is he was
8 facilitating that.

9 What's offensive about what the coaches did is that
10 they had a position of trust to get the best people for their
11 team onto the team. And maybe -- maybe the best person for
12 the team that -- was going to be somebody who was going to
13 help fund the team. Perhaps one could make that argument,
14 but it certainly was to use that position for personal gain.
15 That's a difference.

16 Now, you can say that when you weigh those things,
17 they're different things, and buying a spot is as bad as
18 violating trust. But it is a different -- there is something
19 different than simply saying the one's buying versus, you
20 know, receiving or giving the money. They're different
21 things.

22 MS. WINKLER: Your Honor, if I could say two things
23 briefly to that. I think that brings us back to a perception
24 of what were the coaches being asked to do; and to the extent
25 it was to bring on some academics or some funding, that

1 was -- that's part of why this big picture matters as to what
2 the schools were asking the coaches to do. It doesn't excuse
3 putting the money in your own pocket. And I'm not suggesting
4 it does. But it does -- that's one piece of it.

5 The other part of it -- and while the position of
6 trust with the university is something that I know has
7 motivated some of the animus behind this, it's hard to say
8 that that is in any way worse. I don't think it's worse, at
9 least, than a parent buying their kids a higher score so that
10 they can then beat out a child who has worked hard on their
11 own to get into whichever university at whichever level.

12 THE COURT: What's the difference between -- I
13 mean, somebody is not getting that spot at UCLA if this
14 student is getting that spot.

15 MS. WINKLER: Well, it's because of what the spot
16 is. There is a difference between the bottom of the roster
17 on a sports team, which is used for different purposes,
18 multiple purposes, and a student -- in other words, you don't
19 get your top hundred kids in the university in the bottom of
20 a sports team. That's not what those spots were used for.
21 Whereas if you go outside of that and a child is -- gets
22 higher on the ladder than another child --

23 THE COURT: You know what? You're buying into this
24 notion that these admissions spots, that they go down at the
25 universities and they count, look, we've got 1,600 spots.

1 Let's give them to the top. Let's put everybody in order,
2 and we're going to give them to the top 1,600. I don't think
3 you'll find an admissions officer who will tell you that
4 admissions work that way.

5 I think you might find it slightly differently, to
6 say that, you know, some percentage of these applications
7 that we got -- maybe it's a third, maybe a quarter, who
8 knows -- but there's a very sizable percentage of people who
9 could do fine at our school. We're going to take that one,
10 and now we're going to decide how out of that group we're
11 going to let people in. And it's not in order of who is the
12 best this or who is the best that. There's all kinds of
13 different factors that go in. And some of it is random and
14 some of it's in line.

15 But the point is that there's different factors
16 that go in, and Mr. Salcedo used one of the factors that goes
17 in, which is a recommendation from the athletic department,
18 to get one particular person in rather than another.

19 Now, maybe that person would have gotten in anyway.
20 You know, maybe someone -- we've had -- at least one of the
21 parents who was convicted here, their child has since gone in
22 to the same school where -- or equally good school or better
23 school. I mean, it isn't necessarily -- Mr. Singer was
24 selling to these parents that their children were no good
25 after a year of tutoring, right? He came and told them that

1 even though they thought they could get in, now they can't
2 get in anywhere. That was part of his sales pitch.

3 So I don't know as I sit here that these students
4 couldn't get in or they could get in. What I do know is that
5 the spots were being bought and sold or the extra finger on
6 the thing, which maybe got you a spot and maybe didn't. But
7 I can't say with any of these, well, but the person would
8 have gotten in anyway or the person wouldn't have gotten in
9 anyway. That's not really the question in front of me.

10 MS. WINKLER: And I didn't mean to suggest that it
11 is, Your Honor. I was just -- the comparison between the
12 testing and the recruitment, yes, in the recruitment
13 situation, there is a finger on the scale if the coach
14 recommends that student over another student. Certainly, it
15 does.

16 But I think it's also true -- and even though every
17 university may have 20 factors they look at in deciding
18 whether to take an applicant, one of them is test scores.
19 And it's why the parents were paying the big money to get
20 their kids higher scores. It's why they were willing to
21 cheat to do it.

22 They were trying to advantage their children to
23 help their children get into better schools. That doesn't
24 seem like a stretch to me. It's more of a question of, all
25 right, if you're going to try to push your kid up that way

1 versus push your kid in this way. There's -- both of them
2 are designed to do the same thing, to get kids into a school
3 that -- well, would they have gotten in otherwise? I don't
4 know. But that was the goal, was for the -- and maybe just
5 for the peace of mind of the parent to know the kid would get
6 in or did get in.

7 That's -- I don't really have any further
8 distinction I can draw on that point, Your Honor. I do think
9 the parents and the sentences they got are -- should be taken
10 into account because much of the conduct in which they
11 engaged was equally -- you know, they did it because they
12 loved their kids, the Government says. I'm sure that's true.
13 And Mr. Salcedo did what he did because he loved his kids.

14 That doesn't make it okay for any of them, but
15 that's still an important motivating factor. And the fact
16 that he comes at it without money and needs money in order to
17 do that, while another parent has extra money and can pay
18 their kid's way in, it shouldn't be -- it shouldn't put him
19 in a worse position than the parents who are on the other the
20 side of the arrangement. I think that's all I'm trying to
21 say.

22 THE COURT: Ms. Kearney, would you -- although I
23 know you may not agree with the sentences that have been
24 given to the parents, would you agree with Ms. Winkler's
25 suggestion that in terms of culpability, the coaches

1 shouldn't be held to a higher standard than the parents and
2 that, you know, if I -- if I look at the guidelines, the plea
3 ranges, et cetera, that the Government has negotiated and the
4 guidelines for the parents, and in the Government's view,
5 would you agree with Ms. Winkler that they are comparable?

6 MS. KEARNEY: No, Your Honor. And back to -- I'll
7 reference what I said earlier, which is that the coaches have
8 a duty to their schools, a duty to the team, a duty not to
9 line their pockets. They fill out conflict of interests
10 forms. They have contracts that require them to disclose
11 money that they've received. They have compliance officers.
12 Here, Mr. Salcedo was lying to the compliance officers. So
13 there -- those extra duties make the coaches more culpable
14 than the parents.

15 THE COURT: Okay. If I don't have anything else
16 from counsel, I'll give Mr. Salcedo an opportunity to speak
17 if he'd like.

18 MS. WINKLER: Jorge, you're on mute.

19 THE DEFENDANT: Yes, Your Honor. I would like to
20 share some words.

21 Your Honor, I made foolish decisions from a place
22 of desperation. I take complete responsibility for my
23 regrettable actions. There's no one to blame besides me.
24 The desperation was born from my decision to take on an
25 obligation to purchase a home that was financially way above

1 our means.

2 We had -- we had rented for seven years, and we
3 were excited to purchase our first home, but we soon found
4 ourselves way over our heads. The financial pressure led to
5 a series of misguided and poor choices. I was presented with
6 a situation from a colleague I trusted, and I made the
7 decision that will stay with me for the rest of my life. My
8 desperation blinded my judgment, and I made decisions that
9 were completely wrong.

10 On March 12, 2019, a life that I built from the age
11 of 14, a life that my wife and I built for 19 years, all came
12 to an abrupt end. Thirty-six days after my arrest, we sold
13 our home and moved from a community that we all dearly loved.
14 The loss and the damage I exposed my family to was almost
15 unbearable. I nearly lost all the important parts of my life
16 because of my actions.

17 We spent one year in northern California preparing
18 a better way forward as a family, and most importantly, a
19 realistic way. We made a second move 14 months later and
20 moved back to southern California, where we now live and have
21 begun to take steps we needed to move on with our lives.

22 The road to get to today has been a long process.
23 It has been over one year since I attempted to enter a guilty
24 plea. My family and I want to close this chapter of our
25 lives. And part of this process is accepting my

1 responsibility and acknowledging those who I've hurt and/or
2 caused disruption for.

3 I'd like to take this time to apologize to the
4 Government and to the Court for the time and resources
5 they've extended in this case.

6 To UCLA, although my actions may signal otherwise,
7 it is a place that my wife and I truly loved. UCLA provided
8 some of the most impactful and meaningful experiences of my
9 life. I received an amazing education there, became a
10 student athlete on the UCLA soccer team, an assistant coach
11 and a head coach for 15 years at UCLA.

12 Working there wasn't a job. It was an extension of
13 my family. I cared deeply about everyone that was involved
14 in our program. Not one day goes by that I don't miss and
15 regret what I did to destroy my life at UCLA, to destroy my
16 family's life at UCLA. I miss so badly being on the soccer
17 field and spending time with my players. It was an honor and
18 a joy to coach these elite young men that represented our
19 program.

20 To my parents and my brother who have not wavered
21 in their love and support, I'm sorry that I dragged my family
22 into this. To all my extended family, they were vital in the
23 first year to our family's healing and recovering. I thank
24 them for their unyielding love and -- their unyielding and
25 unconditional love. To all of them, especially my nephew

1 Trey, I'm truly sorry for what I put you through.

2 To my wife, if it wasn't for her strong -- for her
3 being a strong woman of faith, she may not be sitting right
4 here in the room next to me. I'm very grateful for the grace
5 and mercy she has displayed. She didn't deserve any of this.
6 I deeply hurt her, and I'm very sorry.

7 To my four children, who are sitting upstairs
8 awaiting the outcome of today, I'm so sorry. My children
9 know how much I love them, and we've experienced a lot of
10 healing throughout this process. I did things the wrong way,
11 and they have learned that there are consequences for bad
12 choices. I am so sorry how this has impacted their lives.
13 And for them, especially, I will live the rest of my life in
14 honesty and in truth.

15 I'd like to thank Tom and Susan for their
16 professionalism, their hard work, their dedication to
17 represent me, to guide me. It's been a two-year relationship
18 that I consider them friends, and I greatly appreciate all
19 that Tom and Susan have done.

20 In conclusion, Your Honor, I made the worst
21 mistakes of my life. There's not one day that goes by that I
22 don't feel remorse for my actions. I've been forgiven by my
23 family, my loved ones; and I hope in time my UCLA colleagues
24 will find it in their hearts to forgive as well.

25 In the two years since my arrest, I've tried to

1 turn my life around through very trying circumstances. I
2 have a job that will make a significant impact around the
3 world and improve the quality of life for many people. I'm a
4 different man, Your Honor, than I was two years ago. And I
5 will never make decisions like this again.

6 I thank you, Your Honor, for this opportunity to
7 address the Court.

8 THE COURT: Thank you.

9 Ms. Marchione, I saw a message flash up that I
10 think you wanted my attention on, but I wasn't able to get
11 it. So --

12 THE DEPUTY CLERK: You still have time to read it,
13 Judge, if you'd like me to send it again or --

14 THE COURT: I'll just take one second here and do
15 that.

16 THE DEPUTY CLERK: Thank you, Your Honor.

17 THE COURT: My courtroom deputy was reminding me,
18 Ms. Kearney, that once I sentence the defendant, that the
19 Government has agreed to dismiss Counts 1, 2, 17, and 20.
20 And I think we need that at some point on the record, but we
21 can wait till I've concluded with the sentencing.

22 In sentencing, I'm required to consider the factors
23 at 18 U.S.C. Section 3553(a) to determine what a reasonable
24 sentence is, and I have done so here.

25 The way I think about the factors and my job on

1 sentencing is that there are various things about the nature
2 and circumstances of the events, of the offense, and the
3 defendant's personal and criminal history that I'm required
4 to consider. And then I have to think about those looking at
5 the policies and purposes of sentencing. And so that's what
6 I've tried to do here.

7 Starting with the nature and circumstance of the
8 offense, the salient -- the salient parts of this in trying
9 to determine what the right sentence is here was that this
10 did involve bribery. It involved a personal gain. I
11 understand and I am sympathetic that Mr. Salcedo was feeling
12 the threat of mortgage payments that he was having difficulty
13 meeting. You know, again, that's a conversation for another
14 day about how we have mortgages that people are told you can
15 do on your salary, and it turns out that that's just not at
16 all realistic.

17 So I don't minimize at all the stress he was
18 feeling about the financial situation, but the choices
19 ultimately were simply to take the easy path, what appeared
20 to be the easy path, to resolve that financial issue and to
21 keep on going it. I think the problem about talking about
22 the mortgage as a reason for the problem is it sort of
23 invites the logic that if this hadn't been stopped, it would
24 have continued. I think maybe Mr. Salcedo would agree that
25 while this was the most devastating thing in his life, in

1 some ways, it was probably better that the plug was pulled
2 now rather than further down the line.

3 But at any rate, it was an offense of bribery and
4 for financial gain. It was not an offense that was directed
5 with some mixed intentions regarding the -- helping the
6 program itself.

7 At the same time, I don't minimize Mr. Salcedo's
8 real commitment to his team and to the school and to the
9 students he worked with, and I take at face value -- I -- it
10 seems compelling to me that defendant -- that Mr. Salcedo
11 didn't see it as injuring anybody and was not trying to harm
12 people. He just didn't realize that he may well have been
13 doing that.

14 And I take very seriously what you have lost.
15 Ms. Winkler didn't mention it here but mentioned it in the
16 brief that your connections with UCLA go all the way back to
17 when, as a child, you were a ball boy on the team. So I
18 understand that you've lost something very, very significant
19 and that this is -- that prior to this opportunity presenting
20 itself to you, you were a person driven to excellence in your
21 sport and for your players and for your team.

22 But taking all of those things into account -- and
23 I have to consider about the -- what the purposes of
24 sentencing needs to do. And I do need to reflect the
25 seriousness, promote respect for the law, provide a just

1 punishment, afford adequate deterrence to criminal conduct.
2 I would agree with Ms. Winkler that I don't anticipate that
3 you're going to need further deterrence, but I think there is
4 still a message of general deterrence of what is the impact
5 of this -- of this offense.

6 And then, finally, I do have to try and -- in this
7 morass of cases -- try and look at how the kinds of sentences
8 and -- that have been imposed on other defendants and to
9 avoid unwarranted sentencing disparities among similarly
10 situated defendants.

11 So taking all of those things into account, I
12 have -- I have considered that I don't -- I don't see how I
13 can find Mr. Salcedo less culpable than Mr. Center, and I
14 also understand that at least one of the parents has a
15 five-month sentence as well. And so I'm sort of looking at
16 those as bottom measures, but viewing that this is worse than
17 those. And with regard to the parent, that was one parent.
18 We're dealing with more than two or an attempted third
19 transaction.

20 So all of that gets me to the point where I believe
21 the appropriate sentence here would be somewhat longer than
22 Ms. Sui and Mr. Center's, and I'm imposing -- anticipating
23 imposing an eight-month term of incarceration. I'm prepared
24 to delay your reporting date in light of COVID-19 to avoid
25 the -- at least until you've had an opportunity to be

1 vaccinated if you haven't already and it feels appropriate to
2 go there. I don't give you an open check on that, but I will
3 entertain a reasonable request in that regard.

4 I'm actually a little bit -- I am anticipating
5 imposing a year of supervised release because the -- that's
6 sort of the bottom of the guidelines, and no one has asked
7 otherwise. I do recognize that it has been a year since you
8 have attempted to plead guilty. And I guess I would leave it
9 this way, which is that I will impose a year of supervised
10 release, but I will entertain a post judgment -- a post
11 sentence motion to end supervised release early.

12 I'm not imposing the fine requested by the
13 Government, and the reason I'm not imposing that fine is I do
14 think that the go-rounds on the charging decision have made
15 this litigation and prosecution difficult. I think that it
16 was easy to understand -- I think it was easy for everyone to
17 understand that what you were charged with was wrong. It was
18 hard for me to put those facts into a racketeering
19 conspiracy. That seemed to be a crime that didn't cover the
20 activities, in my view, that you were -- the specific facts
21 that you were engaged in doing.

22 And that ended up in a lot of delay, and we ended
23 up a year later with a conviction that you then have. And I
24 understand that that also meant and is -- translates into
25 legal fees and time. And so in light of those charging

1 choices, I am not imposing a fine. I am imposing the
2 \$200,000 restitution that's part of your plea agreement and
3 the \$100 special assessment.

4 So before I impose that, any objections?

5 MS. KEARNEY: Your Honor, just to clarify, I think
6 you said \$200,000 in restitution, and it should be \$200,000
7 in forfeiture.

8 THE COURT: Thank you. \$200,000 forfeiture and no
9 restitution. There's been no request for restitution at this
10 point.

11 Any objection before I formally impose sentencing?

12 MS. KEARNEY: No, Your Honor.

13 MS. WINKLER: No, Your Honor.

14 THE COURT: Mr. Salcedo, pursuant to the Sentencing
15 Reform Act of 1984 and having considered the sentencing
16 factors enumerated at 18 U.S.C. Section 3553(a), it is the
17 judgment of the Court that the defendant, Jorge Salcedo, is
18 hereby committed to the custody of the Bureau of Prisons to
19 be imprisoned for a term of eight months.

20 Upon release from imprisonment, defendant shall be
21 placed on supervised release for a term of one year. Within
22 72 hours of release from custody, the defendant shall report
23 in person to the district to which he is released.

24 I am not imposing a fine for the reasons previously
25 stated. It is -- I am signing the order of forfeiture for

1 \$200,000. And I'm imposing a special assessment of \$100.

2 While under the probation office's supervision, you
3 must comply with the mandatory conditions. You must not
4 commit another federal, state, or local crime. You must not
5 unlawfully possess a controlled substance. You must refrain
6 from any unlawful use of a controlled substance. You must
7 submit to one drug test within 15 days of release from
8 imprisonment and at least two periodic drug tests thereafter,
9 not to exceed 104 tests per year.

10 You must cooperate in the collection of DNA as
11 required by the probation officer. You shall not possess a
12 firearm, ammunition, destructive device, or any other
13 dangerous weapon. You shall comply with the standard
14 conditions that have been adopted by the court, which are
15 described at sentencing guidelines Section 5D1.3(c) and which
16 will be set forth in detail on the judgment. And that's it.

17 The sentence is imposed for all the reasons
18 previously stated and because the Court believes the sentence
19 in all of its components is reasonable and sufficient but not
20 greater than necessary to accomplish the goals of sentencing
21 consistent with 18 U.S.C. Section 3553 and the Supreme
22 Court's guidance.

23 Mr. Salcedo, the plea agreement you've entered into
24 with the Government limits your rights of appeal, but you may
25 still appeal, as all defendants may, on the grounds of

1 ineffective assistance of counsel or prosecutorial
2 misconduct. If you are unable to appeal costs -- to pay
3 appeal costs, you may ask for permission to appeal in forma
4 pauperis. Sentence is imposed as stated.

5 Now, Ms. Kearney, your motion.

6 MS. KEARNEY: Yes, Your Honor. At this time, the
7 Government moves to dismiss Counts 1, 2, 17, and 20 of the
8 superseding indictment.

9 THE COURT: And those counts are now dismissed.

10 MS. WINKLER: Your Honor?

11 THE COURT: Yes.

12 MS. WINKLER: Since the original indictment still
13 remains on the docket, could we also ask that it be
14 dismissed? It's the same count, the RICO count, in
15 connection with Mr. Salcedo.

16 THE COURT: Thank you.

17 MS. KEARNEY: Yes, Your Honor. To the extent
18 Count 1 of the original indictment is not moot, the
19 Government moves to dismiss it.

20 THE COURT: Yes.

21 MS. WINKLER: And --

22 THE COURT: The case law is a little odd in that
23 respect, but we'll do it separately. Count 1 is also
24 dismissed of the original indictment.

25 MS. WINKLER: And if we could ask Your Honor for a

1 recommendation to the Bureau of Prisons that Mr. Salcedo be
2 incarcerated near his home in Los Angeles and in particular,
3 FCI Lompoc. And I can do it in the form of a motion if
4 that's better.

5 THE COURT: No, I put it on the judgment. But I
6 can tell you that the Bureau of Prisons would prefer my
7 making a recommendation without a specific reference to a
8 facility. The reason -- they want to start in with
9 determining the appropriate security level and then determine
10 it. So I will make a recommendation for a facility at his
11 appropriate security level close to his home. His home is
12 Dana Point, however, not Los Angeles. Correct?

13 MS. WINKLER: That's right.

14 Isn't it, Mr. Salcedo?

15 THE DEFENDANT: Yeah, that's correct, Your Honor.

16 THE COURT: It's a distance that New Englanders
17 don't take into account.

18 THE DEFENDANT: Understood.

19 THE COURT: With regard to your report date, it
20 would normally be about six weeks. I can set a report date
21 now, or you can -- and if you would like to request
22 additional time, you can do that separately, or you can let
23 me know right now what you would like to do.

24 MS. WINKLER: Your Honor, if you're willing to
25 consider later, if he can't get the vaccine within that six

1 weeks, a motion to delay a report date to allow him to do it
2 if he's then eligible, that would be -- we could set it now.

3 THE COURT: Let's go ahead and set it, and I will
4 entertain any reasonable motion.

5 I'm also willing to -- I know that Mr. Salcedo's
6 wife will be responsible for their children and is -- has an
7 academic year schedule, perhaps. So if there's something in
8 the timing of that that would be more or less helpful, you
9 may want to start before the school year -- before the summer
10 starts so that -- minimize the time that she has to parent
11 during the academic year -- I'm open to entertaining those
12 options. You're welcome to make that in a motion. But for
13 right now, let's get a six-week date.

14 THE DEPUTY CLERK: Your Honor, this is
15 Ms. Marchione. I have a six-week date roughly of Monday,
16 May 3rd.

17 THE COURT: Monday, May 3rd. And you will be
18 alerted to the facility. I will put the request in for a
19 recommen- -- for a facility at your security level as close
20 as possible to Dana Point, which I believe will be FCI
21 Lompoc, assuming they have room there. And I would encourage
22 you to get the vaccination before you -- your report date at
23 this point. Although, vaccination of the Bureau of Prisons
24 staff has been prioritized, we aren't at very good numbers
25 yet. So I would encourage that to happen first.

1 Anything that we need to do today?

2 MS. WINKLER: Your Honor, I don't know whether you
3 prefer to have this by motion, but there is a \$25,000 bond
4 that the Salcedos paid back in July that we would like to
5 move to have returned to them. And I can do it by motion if
6 that's easier.

7 THE COURT: It would be easier because that bond is
8 paperwork that goes through the clerks office ultimately, so
9 having this on paper makes it a lot easier.

10 MS. WINKLER: All right. Will do. Thank you.

11 THE COURT: Thank you.

12 Mr. Salcedo, I wish you success moving forward. I
13 acknowledge the efforts that you have put in so far, and I
14 trust that this is -- you are going to be able to move
15 forward once you get past this time.

16 THE DEFENDANT: Your Honor, I'm sure this isn't
17 commonplace, but I just wanted you to know that I appreciate
18 the way you critically think through things and it's much
19 appreciated.

20 THE COURT: Even if it caused you a one-year delay,
21 but . . .

22 Okay. Thank you. We are in recess.

23 (Court in recess at 4:13 p.m.)

24

25

CERTIFICATE OF OFFICIAL REPORTER

4 I, Robert W. Paschal, Registered Merit Reporter and
5 Certified Realtime Reporter, in and for the United States
6 District Court for the District of Massachusetts, do hereby
7 certify that pursuant to Section 753, Title 28, United States
8 Code, the foregoing pages are a true and correct transcript
9 of the stenographically reported proceedings held in the
10 above-entitled matter and that the transcript page format is
11 in conformance with the regulations of the Judicial
12 Conference of the United States.

Dated this 2nd day of April, 2021.

/s/ Robert W. Paschal

ROBERT W. PASCHAL, RMR, CRR
Official Court Reporter